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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/385,412	08/30/99	STURLA	J 5725.0470-01

022852 HM12/1005  
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EXAMINER

BAWA, R

ART UNIT	PAPER NUMBER
1619	17

DATE MAILED: 10/05/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

<b>Office Action Summary</b>	Application No. <b>09/385,412</b>	Applicant(s) <b>Strula et al.</b>						
	Examiner <b>Bawa</b>	Art Unit <b>1619</b>						
								
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>								
<p><b>Period for Reply</b></p> <p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>1</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>								
<p><b>Status</b></p> <p>1) <input type="checkbox"/> Responsive to communication(s) filed on _____.</p> <p>2a) <input type="checkbox"/> This action is FINAL.      2b) <input checked="" type="checkbox"/> This action is non-final.</p> <p>3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11; 453 O.G. 213.</p>								
<p><b>Disposition of Claims</b></p> <p>4) <input checked="" type="checkbox"/> Claim(s) <u>1-29</u> is/are pending in the application.</p> <p>4a) Of the above, claim(s) _____ is/are withdrawn from consideration.</p> <p>5) <input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6) <input type="checkbox"/> Claim(s) _____ is/are rejected.</p> <p>7) <input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8) <input checked="" type="checkbox"/> Claims <u>1-29</u> are subject to restriction and/or election requirement.</p>								
<p><b>Application Papers</b></p> <p>9) <input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10) <input type="checkbox"/> The drawing(s) filed on _____ is/are objected to by the Examiner.</p> <p>11) <input type="checkbox"/> The proposed drawing correction filed on _____ is: a)<input type="checkbox"/> approved b)<input type="checkbox"/> disapproved.</p> <p>12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>								
<p><b>Priority under 35 U.S.C. § 119</b></p> <p>13) <input type="checkbox"/> Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).</p> <p>a)<input type="checkbox"/> All b)<input type="checkbox"/> Some* c)<input type="checkbox"/> None of:</p> <ol style="list-style-type: none"> <li>1. <input type="checkbox"/> Certified copies of the priority documents have been received.</li> <li>2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</li> <li>3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</li> </ol>								
<p>*See the attached detailed Office action for a list of the certified copies not received.</p>								
<p>14) <input type="checkbox"/> Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).</p>								
<p><b>Attachment(s)</b></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding-right: 20px;">           15) <input type="checkbox"/> Notice of References Cited (PTO-892)         </td> <td style="width: 50%;">           18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____         </td> </tr> <tr> <td>           16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         </td> <td>           19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)         </td> </tr> <tr> <td>           17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____         </td> <td>           20) <input type="checkbox"/> Other: _____         </td> </tr> </table>			15) <input type="checkbox"/> Notice of References Cited (PTO-892)	18) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____	16) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	19) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)	17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____	20) <input type="checkbox"/> Other: _____
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17) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____	20) <input type="checkbox"/> Other: _____							

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**Detailed Action**

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I.      Claims 1-27 and 29 are, drawn to an aerosol composition, classified in class 424, subclass 47.
- II.     Claim 28 is drawn to a method, classified in class 132, subclasses 200+.

The inventions are distinct, each from the other because:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the method as claimed can be practiced via acrylate hair mousse formulations.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

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Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mr. Raj Bawa whose telephone number is (703) 308-2423. The examiner can normally be reached on Tuesday-Friday from 7:30 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diana Dudash, can be reached on (703) 308-2328. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Bawa



RAJ BAWA, Ph.D.  
PRIMARY EXAMINER